CITATION: The Vancor Group Inc. v. 2744364 Ontario Limited et al, 2025 ONSC 5925
COURT FILE NO.: CV-25-00735482-00CL
DATE: 20251028

SUPERIOR COURT OF JUSTICE – ONTARIO
(COMMERCIAL LIST)

RE: **IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF 1001235542 ONTARIO INC.

BEFORE: Justice Jane Dietrich

COUNSEL: *Patrick Corney, Mryam Sarkis*, counsel for the Vancor Group

David Ullmann, Georges Melkon, counsel for the Monitor

Ken Schaller, In-person/ Self-Represented

HEARD: October 17, 2025

REASONS FOR DECISION

Introduction

[1] There are two motions before me. Deloitte Restructuring Inc., in its capacity as court-appointed monitor (the "**Monitor**") of 1001235542 Ontario Inc. seeks an order for security for costs against Mr. Kenneth Schaller. Corry Van Iersel, The Vancor Group Inc., 2744364 Ontario Limited, 2668905 Ontario Inc., and 2767888 Ontario Inc. (together, the "**Van Iersel Parties**") also seek an order for security for costs against Mr. Schaller.

[2] Mr. Schaller is a former shareholder of 2744364 Ontario Inc. (o/a True North Cannabis Co.) ("**TNCC**"), 2668905 Ontario Inc. (o/a Bamboo Blaze) ("**Bamboo Blaze**") and 2767888 Ontario Inc. ("**888**" and together with TNCC and Bamboo Blaze, the "**Former Debtors**"), who are former debtors in this underlying proceeding under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**").

[3] Mr. Schaller filed a notice of motion dated July 28, 2025, as amended (the "**Schaller Motion**") seeking wide ranging relief against the Monitor and the Van Iersel Parties and others.

Background & Preliminary Issues

CCAA Proceedings

[4] This CCAA proceeding began as a creditor-initiated application. The applicant, Vancor Group Inc. ("**Vancor**"), sought an initial order under the CCAA in respect of the Former Debtors. Vancor was a creditor of the Former Debtors.

[5] On January 24, 2025, Justice Penny granted an initial order (the "**Initial Order**"). The comeback hearing took place on February 3, 2025, and the court granted an amended and restated initial order ("**ARIO**").

[6] The CCAA proceeding has substantially run its course. On March 3, 2025, an order approving a sale and investment solicitation process was granted (the "**SISP Approval Order**"), as was a claims procedure order (the "**Claims Procedure Order**"). On May 21, 2025, the Court also granted an approval and reverse vesting order (the "**ARVO**"). The transaction approved by the ARVO closed on May 27, 2025, at which point, the Former Debtors ceased to be subject to the CCAA proceedings and 1001235542 Ontario Inc. became the debtor in these CCAA Proceedings.

[7] Mathew Glowacki at MPG Law was served with the initial application material in the CCAA proceedings as counsel for Mr. Schaller. Both Mr. Glowacki and Mr. Schaller personally were served with all other motion materials in the CCAA proceedings. Mr. Schaller did not oppose any of the relief sought in the CCAA Proceedings, including the ARIO, the SISP Approval Order, the Claims Procedure Order, or the ARVO. Mr. Glowacki had various communications with the Monitor's counsel during the CCAA proceedings including into May of 2025. Mr. Schaller and PICI Investments Incorporated ("**PICI**") also delivered proofs of claim in accordance with the Claims Procedure Order in April of 2025.

Mr. Schaller's Relationship with the Former Debtors

[8] The Former Debtors are three of six businesses formerly owned or controlled by a combination of Vancor, PICI – a company controlled by Mr. Schaller, Mr. Schaller's common-law spouse Alena Hapanovich – and, in the case of 888, Garas Family Holdings Inc. Prior to the CCAA Proceedings, Mr. Schaller and Mr. Van Iersel were directors and officers of Bamboo Blaze and 888. Ms. Hapanovich and Mr. Van Iersel were directors and officers of TNCC.

[9] In April of 2024, Vancor and others issued a Statement of Claim based in oppression against Mr. Schaller, Ms. Hapanovich, and other defendants bearing Court File No. CV-24-00000669-0000 ("**Oppression Litigation**"). Mr. Schaller and the other defendants defended the litigation and initiated a counterclaim.

[10] The Oppression Litigation resulted in an Order of Justice Gibson, dated April 26, 2024 (the "**Control Order**"), made on consent, which had the effect of prohibiting Mr. Schaller and Ms. Hapanovich from having any involvement in the Former Debtors' operations and related businesses.

[11] The Oppression Litigation remains outstanding as it was ‘Assumed Litigation’ under the AVRO and not subject to the releases granted in that Order.

The Schaller Motion

[12] On or about July 2, 2025, Mr. Schaller began sending information and allegations to the Monitor and the service list in the CCAA Proceedings regarding the Monitor’s conduct, the Van Iersel Parties’ conduct, and alleging certain misconduct in the CCAA Proceedings.

[13] A case conference took place before Justice Kimmel on July 24, 2025, at which time she noted in her endorsement (the “**July 24 Endorsement**”):

> [1] Mr. Schaller, who describes himself as an equity investor, creditor, and holder of a shareholder loan in respect of the debtor companies that are the subject of this CCAA proceeding, has indicated that he would like to bring a Motion to Reopen Proceedings and Stay the Reverse Vesting Order. He identifies thirteen specific paragraphs delineating categories of relief he will seek plus the generic basket clause relief (the "Set Aside Motion").
>
> [2] After some broad communications sent to the service list, Mr. Schaller has now sent by email to the service list (in a series of approximately 22 more recent emails) his Notice of Motion, a supporting affidavit and a proposed draft order in support of his Set-Aside Motion.

[14] In her July 24 Endorsement, Justice Kimmel prohibited Mr. Schaller from using the service list in the CCAA Proceedings for general communications with stakeholders and advised that his use of the Service List should be limited to service of documents. Mr. Schaller was also directed to prepare an Amended Notice of Motion to include a lifting of the stay of proceedings in the CCAA Proceedings as relief to allow him to proceed with his motion.

[15] At that time, Mr. Schaller’s lift stay motion and the Monitor’s security for costs motion were scheduled for August 25, 2025. However, Justice Black’s August 18, 2025, endorsement provided that the Monitor and the Van Iersel Parties’ security for costs motion proceed first, as Mr. Schaller had filed amended and additional materials in the Schaller Motion – increasing the volume of his materials from approximately 2,000 to 3,000 pages and increasing the heads of relief sought to over 60.

[16] The relief sought in the Schaller Motion is wide ranging. It includes “an Order reopening the CCAA proceedings to address newly uncovered and material evidence of fraud, misrepresentation, and procedural unfairness”, an order staying the ARVO, an order lifting the CCAA stay to allow the motion to proceed, an order directing a full forensic investigation and audit of the financial records of the Former Debtors, an order compelling various production of records and providing for oral discovery of various individuals, an

order replacing Deloitte Restructuring Inc. as Monitor, and an order varying the Control Order made in the Oppression Litigation.

[17] The primary allegations appear to be that the insolvency of the Former Debtors was fabricated (in other words, the Former Debtors were solvent) and that the CCAA proceedings were designed to restore equity to select investors by way of secret side deals. Further, it is alleged that the Monitor knew or should have known of the fabrications and is biased because the Monitor has refused to investigate the alleged misconduct, has selectively accepted claims under the Claims Procedure Order, and has not acted after being presented with allegedly credible evidence of fraud.

[18] As an aside, the Schaller Motion also claims that Mr. Glowacki, Mr. Schaller's counsel, failed to act during a critical two-week period prior to the hearing for the ARVO, causing Mr. Schaller irreversible procedural prejudice and financial loss.

[19] Mr. Schaller submitted numerous affidavits for use at the motion. These included (i) an affidavit of Mr. Schaller sworn September 22, 2025 (while Mr. Schaller was located in Thailand); (ii) a supplemental affidavit of Mr. Schaller sworn October 15, 2025 (while Mr. Schaller was located in Richmond Hill, Ontario); and (iii) an affidavit of Nashaat Garas sworn September 23, 2025. Mr. Schaller also served a copy of a certified transcript of a January 29, 2025, recording (the "**Recording**") on October 16, 2025. He also swore additional affidavits in support of the underlying Schaller Motion on July 30, 2025 (while Mr. Schaller was located in Thailand) and on August 13, 2025 (while Mr. Schaller was located in Toronto, Ontario).

[20] The Monitor and the Van Iersel Parties relied on the Monitor's Fifth Report dated September 9, 2025. Mr. Schaller repeatedly took issue with the reliance on a Monitor's report as evidence and claimed that without sworn affidavit evidence, the Monitor and the Van Iersel Parties had no evidence on which they could ground their motion. In oral argument, Mr. Schaller admitted that he had no case law to support that proposition.

[21] I have no issue accepting a report from the Monitor, as a court-appointed officer, as evidence. As recently noted by Justice Cavanagh in *Intercity Realty Inc v. PricewaterhouseCoopers Inc. et al*., 2024 ONSC 2400 at paras. 51 and 52, relying on *Farber v. Goldfinger*, 2011 ONSC 2044, 75 C.B.R. (5th) 170, this Court routinely accepts reports of court-appointed officers in CCAA proceedings, or as trustees or receivers in bankruptcy or receivership proceedings as evidence.

Submission of AI Hallucinated Cases by Mr. Schaller

[22] Mr. Schaller filed a factum for use on the security for costs motions. In its reply factum, the Monitor identified a number of cases that Mr. Schaller cited that either did not exist or were cited for principles not dealt with in the case cited. For example, Mr. Schaller cited *Valgardson v. British Columbia*, 2020 BCCA 20. That case does not exist. Similarly, Mr. Schaller cited *Wallace v. Crates Marine Sales Ltd*. 2014 ONSC 3124 for the proposition that a security order must balance fairness, efficiency, and access to justice. That case does

not exist. A similar case, *Wallace v. Crate's Marine Sales Ltd*., 2014 ONCA 671 exists, however, it does not stand for the proposition cited, instead, it addresses the dismissal of an action for want of prosecution.

[23] Mr. Schaller filed his own reply factum (although not permitted by the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 (the "***Rules***")). In that sur-reply factum, he did not accept responsibility for citing hallucinated cases, instead writing: "The Monitor's suggestion that certain cases were "AI hallucinations" was misplaced and inappropriate in a professional filing. The principles I rely on are grounded in binding Supreme Court and Court of Appeal jurisprudence. Disagreement about interpretation does not justify disparagement. As a self-represented litigant, I rely on publicly available databases and every citation is made in good faith."

[24] In oral submissions, Mr. Schaller admitted to using on-line tools to assist him. When I first asked if he had checked the cases he cited, he claimed he had. However, he later agreed that some of the cases he cited could not be found.

[25] The inclusion of citations that are not real is very concerning. As RSJ Tzimas recently noted in *Halton (Regional Municipality) v. Rewa et al*., 2025 ONSC 4503 [***Rewa***], at para. 53,

> Every person who submits authorities to the court has an obligation to ensure that those authorities exist and stand for the propositions for which they are advanced. Although increasingly people are using AI applications to assist them with drafting and research, they have an obligation to verify if the tool they are using is reliable. One does not need to be a lawyer to conduct a simple search on CanLII to verify whether the cases identified by the AI-generated factum exist. One also does not need to be a lawyer to read through a case to verify if it stands for the suggested proposition.

[26] Adjournment of the Monitor and the Van Iersel Parties' motions for security for costs is not in the interest of either the Monitor or the Van Iersel Parties. However, as stated in *Rewa* at paras. 51 and 52, "it matters not if fictitious cases are advanced by a lawyer or a self-represented party. The adverse effect on the administration of justice is the same... Misleading the Court is an affront to the administration of justice and can be fatal to one's credibility."

Issues

[27] The issues to be decided are whether the Monitor and the Van Iersel Parties are entitled to security for costs from Mr. Schaller and if so, what is the appropriate the amount and form of security.

Analysis

[28] *Rule* 56.01(1) sets out the criteria when a Court may order security for costs:

> 56.01 (1) The court, on motion by the defendant or respondent in a proceeding, may make such order for security for costs as is just where it appears that,
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> (a) the plaintiff or applicant is ordinarily resident outside Ontario;
>
> (b) the plaintiff or applicant has another proceeding for the same relief pending in Ontario or elsewhere;
>
> (c) the defendant or respondent has an order against the plaintiff or applicant for costs in the same or another proceeding that remain unpaid in whole or in part;
>
> (d) the plaintiff or applicant is a corporation or a nominal plaintiff or applicant, and there is good reason to believe that the plaintiff or applicant has insufficient assets in Ontario to pay the costs of the defendant or respondent;
>
> (e) there is good reason to believe that the action or application is frivolous and vexatious and that the plaintiff or applicant has insufficient assets in Ontario to pay the costs of the defendant or respondent; or
>
> (f) a statute entitles the defendant or respondent to security for costs.
>
> (2) Subrule (1) applies with necessary modifications to a party to a garnishment, interpleader or other issue who is an active claimant and would, if a plaintiff, be liable to give security for costs.

[29] The Monitor and the Van Iersel Parties move under *Rule* 56.01(1)(a) and (e).

[30] The Court's jurisdiction to grant security for costs is discretionary. If the moving party shows that one of six factors listed in Rule 56.01(1) applies, then the onus shifts to the responding party to show that it would be unjust in the circumstances to order security for costs: see *In the Matter of a Plan of Compromise or Arrangement of BZAM Ltd. et al.*, 2024 ONSC 3902, 14 C.B.R. (7th) 333 [***BZAM***] at para. 19.

[31] The threshold for the first stage of the analysis is 'light': see *BZAM*, at para. 20 relying on *JoBro Film Finance Ltd., v. National Bank of Canada*, 2020 ONSC 975, at para. 6.

Stage One – Does a Factor in Rule 56.01 Apply?

Rule 56.01(1)(a) Ordinarily Resident Outside of Ontario

[32] As noted in *Austin v. Torstar Corp*., 2001 CarswellOnt 2814 at para. 23, it is not necessary to conclusively find that the moving party is not resident in Ontario to engage 56.01(1)(a) – it is only necessary to be persuaded that he 'appears' to be ordinarily resident outside of Ontario.

[33] The Monitor's uncontested evidence is that Mr. Schaller and his family resided in Thailand from September of 2024 (with Mr. Schaller's family returning in August of 2025). Prior to August of 2025, Mr. Schaller attended case conferences virtually from Thailand and has sworn all affidavits for this proceeding while in Thailand. Mr. Schaller has stated that he manages a national business in Thailand employing over 100 staff.

[34] In Mr. Schaller's affidavit sworn on September 22, 2025, he stated at paragraph 6, "I confirm that my family returned to Ontario on August 3, 2025. I am in the process of permanently relocating to Ontario and will provide my Ontario address for service prior to the October 17, 2025 hearing."

[35] No Ontario address was provided prior to the hearing, even though Mr. Schaller submitted a supplemental affidavit dated October 15, 2025. At the hearing, Mr. Schaller advised that he could provide a copy of a lease, but that was not in evidence before me.

[36] Mr. Schaller also advised that he was prepared to undertake to remain in Ontario and surrender his passport – however, those two items do not go to Mr. Schaller's ordinary residence. As noted below, Mr. Schaller also did not provide evidence of any substantial assets currently tying him to Ontario.

[37] As noted in *Tang v. Xpert Credit Control Solutions Inc*., 2023 ONSC 3827 at para. 28, an intention to regain ordinary residence in Ontario is not the same as being currently ordinarily reside in Ontario.

[38] I am cognizant that at this first stage in the analysis under *Rule* 56.01, the threshold which the Monitor and the Van Iersel Parties must satisfy is 'light'. I am satisfied that the Monitor and the Van Iersel Parties have met that threshold, and it appears to me, based on the evidence before me, that Mr. Schaller is not ordinarily resident in Ontario.

Rule 56.01(1)(e) Good Reason to Believe the motion is frivolous and vexatious and the moving party has insufficient assets in Ontario

[39] In meeting the burden under Rule 56.01(e), the responding party must demonstrate that there are sufficient hallmarks of "frivolousness" or "vexatiousness" that allows the Court to conclude that there is good reason to believe that the action may be so. The rule does not require a conclusive finding that the action is frivolous or vexatious: see *Rebello v. Paragon Security*, 2020 ONSC 2303, [***Rebello***] at para. 11.

[40] As noted at para. 12 of *Rebello*, "the Courts have defined "frivolousness" as an action that appears so highly unlikely to succeed that it is apparently devoid of practical merit." In considering whether an action is frivolous, the Court should give the motion the widest latitude and allow for drafting deficiencies, especially when the plaintiff is self-represented and has not had the benefit of legal training.

[41] As set out in *Yae v. Park*, 2013 ONSC 1331, para. 14, indicators of vexatious actions include: (i) the bringing of multiple actions to determine an issue that has already been determined; (ii) an action that obviously cannot succeed; (iii) an action brought for an improper purpose, including harassment of opposing parties; and (iv) an action in which grounds get rolled forward into subsequent actions and repeated or supplemented, often with claims brought against lawyers who acted for or against the litigant in earlier stages of the proceeding.

[42] Here, the claims made by Mr. Schaller in the Schaller Motion are *prima facie* a collateral attack on previous orders made in these CCAA Proceedings, including the ARIO, the SISP Order and the ARVO. Mr. Schaller had notice of each step in the CCAA Proceeding and did not object to any of the relief sought in real time. Mr. Schaller claims that his lack of objection at certain times lies at the feet of his previous counsel, but that is an issue separate and apart from the primary relief sought in Mr. Schaller's motion – being a reopening of the CCAA proceeding and the setting aside of the ARVO (even though the transaction approved by that order has closed).

[43] When considering the hallmarks of a vexatious proceeding, it is also relevant that the Schaller Motion was preceded by over 40 emails being sent to the Monitor and the service list in the CCAA Proceedings which included allegations of conspiracy, fraud and misconduct against the Monitor, and personal attacks aimed at the Monitor's representatives. For example, in correspondence addressed to Mr. Ambachtsheer dated July 8, 2025, which was copied to 'Media Outlets and Service List', Mr. Schaller wrote:

> I am writing to put you, Todd Ambachtsheer, and Deloitte Restructuring Inc. firmly on notice - and to make the public aware - that your continued refusal to act on overwhelming evidence of fraud is a betrayal of your professional duties, a stain on Deloitte's name, and a looming scandal that will damage your reputation for years to come.
>
> …
>
> Your silence has allowed a fraudulent narrative to become "official history" in a Court of law. This is not oversight. It is gross professional misconduct.
>
> Deloitte Now Faces a Choice: Stand for Truth or Be Known as a Whitewash Machine Instead of fulfilling your sworn duty as Court-appointed Monitor to protect stakeholders and uphold the integrity

> of the restructuring process, you, Todd Ambachtsheer, and Deloitte have become gatekeepers for a whitewash.
>
> You are either:
>
> Blinded by arrogance, believing Deloitte's name shields you from accountability;
>
> Lazy, refusing to do the work required to expose fraud;
>
> Or actively enabling a criminal conspiracy to protect insiders at the expense of innocent investors, creditors, and the Canadian public.
>
> …

[44] This specific letter from Mr. Schaller goes on for over four pages and includes numerous threats and allegations of misconduct. This is just one of many emails.

[45] I also note that Mr. Schaller's claims in the Oppression Litigation remain alive and were not foreclosed by the CCAA Proceedings or the ARVO.

[46] I make no definitive finding of whether the Schaller Motion is frivolous or vexatious. However, I am satisfied on the evidence before me that there is good reason to believe that the Schaller Motion may be so.

[47] As such, under the second part of Rule 56.01(e), the Court is to consider whether Mr. Schaller has insufficient assets in Ontario to pay the costs of the Monitor or the Van Iersel Parties should they be ordered. As this remains part of the first stage of the security for costs analysis, the threshold for this analysis remains 'light'.

[48] As held in *Crossover Health Care Fund, LLC v. Pivotal Therapeutics Inc*., 2018 ONSC 5961 at para. 25, assets must be exigible in nature to be *bona fide* assets for the purpose of a security for costs motion – in other words – the assets must be of a nature that can be converted to cash or an alternative financial instrument.

[49] Mr. Schaller has not provided any current statement of net worth or of assets. Although a personal statement of net worth was included in his materials, during oral submissions, Mr. Schaller clarified that such statement was historic and was not intended to provide a current picture of his assets. In the Monitor's Fifth Report, there is a detailed analysis of that statement which highlights the concerns with relying on this historic statement (given certain assets were owned by corporate entities and the equity interest in the various corporations listed are questionable).

[50] Mr. Schaller relies on a promissory note that was that was issued by 888 to PICI and is due and payable on May 27, 2026 (the "**Note**"). The Note was issued as part of the transaction approved by the ARVO. It is unsecured. It is also not payable to Mr. Schaller but to PICI. No evidence of the value of the Note or the financial position of PICI to demonstrate that

the value from the Note would flow to Mr. Schaller was provided. I am not persuaded that the Note is an exigible asset that can be converted to cash or an alternative financial instrument such that it should be considered for the purposes of Rule 56.01(e).

[51] Accordingly, I am not persuaded based on the record before me that Mr. Schaller has sufficient assets in Ontario to pay the costs of the Monitor or the Van Iersel Parties should they be ordered. As such, I am satisfied that the Monitor and the Van Iersel Parties have satisfied the first stage of the analysis, as two of the factors set out in Rule 56.01 have been met.

Stage Two – Would an Order for Security for Costs be Unjust in the Circumstances?

[52] Once the fist stage is satisfied, the onus shifts to Mr. Schaller to persuade the Court that making an order for security for costs would be unjust in the circumstances.

[53] As noted by the Ontario Court of Appeal in *Yaiguaje v. Chevron Corporation*, 2017 ONCA 827, 138 O.R. (3d) 1 [***Yaiguaje***] at para. 23, the *Rules* specifically provide that an order for security for costs should only be made where the justness of the case demands it, even if the provisions of Rule 56.01 are otherwise met. "The correct approach is for the court to consider the justness of the order holistically, examining all the circumstances of the case and guided by the overriding interests of justice to determine whether it is just that the order be made": *Yaiguaje*, at para. 25.

[54] A moving party can satisfy its onus that a security for costs order would not be just where (i) it can demonstrate sufficient exigible assets in Ontario or a reciprocating jurisdiction; (ii) it can demonstrate it is impecunious and justice demands it be permitted to continue with the action; or (iii) if it cannot demonstrate (i) or (ii), the moving party must meet a high threshold to satisfy the Court of its chances of success: see *Parravano v. St. Paul Fire and Marine Insurance*, 2023 ONSC 3480 at para. 13, quoting from *Coastline Corporation Ltd. v. Canaccord Capital Corporation et al*., 2009 CanLII 21758 (ON SC) at para. 7.

[55] As noted above, Mr. Schaller has not demonstrated sufficient exigible assets in Ontario. Further, he does not claim impecuniosity. Finally, I am not persuaded that he has met the high threshold required to satisfy the Court of his chance of success.

[56] Mr. Schaller spent most of his submissions addressing the merits of the Schaller Motion. His submissions centered around information the Former Debtors provided the Court that he claims was inaccurate (and not properly verified by the Monitor) as well as a recording of a conversation from January 29, 2025 between Cory Van Iersel, Nash Garas, and Heithem Dahoruj which Mr. Schaller alleges demonstrates, among other things, that a concerted effort was made to downplay the value of the Former Debtors and to squeeze out certain equity holders while preferring others by way of "secret side deals."

[57] In considering Mr. Schaller's chances of success, it is important to recognize that Mr. Schaller did not object to any of the relief sought in the CCAA proceeding even though he was served with the initial application and all other material through counsel, and

personally. As noted above, this includes the Initial Order, the ARIO, the Claims Procedure Order, and the SISP Approval Order and that ARVO.

[58] Mr. Schaller claims that the Recording only came to light after the ARVO had been granted and once it did, he moved swiftly. However, other aspects of Mr. Schaller's complaints relate to matters which could have been raised earlier (for example, disclosure of previous appraisal evidence).

[59] Attacking CCAA Orders after they have been made and acted upon violates the fundamental incremental nature of the CCAA process which RSJ Morawetz (as he was then) described in *Target Canada Co. (Re)*, 2016 ONSC 316, 32 C.B.R. (6th) 48 [***Target***] at para. 81 as one of building blocks. As such, it is essential that orders made during CCAA proceedings be respected.

[60] Having considered all the relevant factors in the circumstances of this case holistically, I am not persuaded that it would be unjust to require Mr. Schaller to post security in favour of both the Monitor and the Van Iersel Parties.

Amount of Security for Costs to be Posted

[61] The principles and factors that apply to a determination of the appropriate quantum are substantially similar to the factors that apply to the exercise of discretion in fixing costs. The amount ordered must fall within the reasonable contemplation of the parties, and the Court must be guided by what is reasonable and fair: see *BZAM*, at para. 81. However, the Court is to balance the entitlement of the responding parties to a reasonable measure of protection for their costs, as against the impact of any order requiring security to be posted on the claimant: see *BZAM*, at para. 80.

[62] The Monitor requests that this Court order Mr. Schaller to post security for costs in the amounts of $199,046.99 for the costs of the Monitor and $291,431.52 for the costs of Monitor's counsel. The Van Iersel Parties request Mr. Schaller post security for costs in the amount of $230,260.10. These figures represent costs on a substantial indemnity basis given the serious allegations of fraud, bad faith, and professional misconduct advanced by Mr. Schaller.

[63] The Monitor and the Van Iersel Parties will be required to invest significant amounts of time and money responding to what has been, and will continue to be, complex, high-stakes litigation. The quantum of the costs expected to be incurred is significant considering the number and breadth of issues raised in the Schaller Motion.

[64] Given the allegations of fraud alleged by Mr. Schaller, I am satisfied that security should be ordered in respect of costs on an elevated scale.

[65] Although the Monitor claimed its own costs, as well as those of its legal counsel, the Monitor did not put forward any case law to support this request. It may be that after the hearing of the Schaller Motion, the Court finds it appropriate to award costs of both the

Monitor itself and the Monitor's counsel, however, at this time I am not prepared to grant security in respect of both.

[66] In my view and having considered all the relevant factors, an appropriate order is one that requires Mr. Schaller to post security for costs in favour of the Monitor in the amount of $250,000 and in favour of the Van Iersel Parties in the amount of $150,000, for a total of $400,000. All amounts are inclusive of fees, disbursements, and HST.

[67] As noted above, I am not persuaded that the Note is an appropriate form of security.

Disposition

[68] The motions for security for costs of the Monitor and of the Van Iersel Parties are granted. Mr. Schaller is to post security for costs in favour of the Monitor in the amount of $250,000 and in favour of the Van Iersel Parties in the amount of $150,000 inclusive of fees, disbursements, and HST.

The Honourable Justice Jane Dietrich

Date: October 28, 2025